

REMARKS

The Office Action mailed May 27, 2009 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Record of Interview

On September 16, 2009, an interview was conducted by telephone between Examiner Dunn and the undersigned. Applicants thank the Examiner for granting this interview. The details of the interview are set forth in the Interview Summary document made of record.

Claim Status and Amendment to the Claims

Claims 45-51 are now pending.

No claims stand allowed.

Claims 1-44 have been cancelled, without prejudice or disclaimer of the subject matter contained therein.

Claims 45-51 have been added. New claims 45-51 find support in the specification, figures, and claims as originally filed. No new matter has been added.

The 35 U.S.C. § 112 Rejection

Claims 1 and 11 stand rejected for various informalities.¹ With this Amendment, Claims 1 and 11 have been cancelled, without prejudice or disclaimer of the subject matter contained therein. Withdrawal of the 35 U.S.C. § 112 Rejection is respectfully requested.

¹ Office Action mailed May 27, 2009, at ¶4.

The 35 U.S.C. § 103 Rejection

Claims 1, 3-6, 8-11, 13-16, 18-21, 23-26, 28-30, 35, 37-40, and 42 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Folkes et al.,² in view of Moy³ and further in view of Dinker et al.,⁴ of which Claims 1, 11, 21, and 35 are independent claims.⁵

As an initial matter, the Applicant notes the Examiner alleges Claims 1, 3-6, 8-11, 13-16, 18-21, 23-26, 28-30, 35, 37-40, and 42 are *anticipated* by Folkes et al. in view of Moy and further in view of Dinker et al.⁶ According to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102(a), (b) and (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a *single* prior art reference.⁷ As the Examiner refers to three references, the Applicant assumes the Examiner intended to allege obviousness of the claims based on the combination of Folkes et al. in view of Moy and further in view of Dinker et al.

Turning to the substance of the rejection, with this Amendment, Claims 1, 3-6, 8-11, 13-16, 18-21, 23-26, 28-30, 35, 37-40, and 42 have been cancelled, without prejudice or disclaimer of the subject matter contained therein. Withdrawal of the 35 U.S.C. § 103 Rejection is respectfully requested.

² U.S. Patent Publication No. 2003/0218982 to Folkes et al.

³ Hitless OSPF Restart, February 2002.

⁴ U.S. Patent Publication No. 2004/0098490 to Dinker et al.

⁵ Office Action mailed September 18, 2008 at ¶¶ 6 and 15.

⁶ Office Action at ¶¶ 6 and 15.

⁷ Manual of Patent Examining Procedure (MPEP) § 2131. (emphasis added) See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

New Claims 45-51

Claim 45 is a method claim. Claim 47 is a non-means-plus-function apparatus claim corresponding to method claim 45. Claim 50 is a means-plus-function apparatus claim corresponding to method claim 45. Claim 51 is an *In re Beauregard* claim corresponding to method claim 45. Support for Claims 45-51 is found in the specification, figures, and claims as originally filed. For example, the following copy of new method claim 45 has been annotated with reference numerals (See e.g. FIG. 2 and associated description) to show support in the application as filed:

A computer implemented method for routing network traffic flowing to and from a cluster (10) of network enabled devices (12a-12c) having at least a first network enabled device (12b) having a first routing component (22) and a second network enabled device (12a) having a second routing component (16) and a network manager (28), the network manager (28) external to and communicably coupled to the first routing component (22) and the second routing component (16), each of the network enabled devices (12a-12c) in the cluster (10) configured to communicate with network devices external to the cluster (10) through a single network address, each of the network enabled devices (12a-12c) in the cluster (10) configured to operate in parallel and independently of each other, the method comprising:

- receiving one or more incoming messages indicating the single network address as a destination address;
- routing the one or more incoming messages to one of the network enabled devices (12a-12c) in the cluster (10);
- at a configuration manager module (26) of the first routing component (22), storing configuration information relayed from a configuration manager module (20) of the second routing component (16); and
- at a dynamic routing module (24) of the first routing component (22), in response to a command from the network manager (28), storing routing information received from the second routing component (16) via a cluster internal communication mechanism;

wherein upon an unplanned failure of the second dynamic routing module (18) of the second routing component (16),

- the dynamic routing module (24) of the first routing component (22) executes according to the configuration information stored in the configuration manager module (26) of the first routing component (22); and
- the first routing component (22) transmits a hitless restart event, the hitless restart event signaling network enabled devices outside of the cluster (10) to continue forwarding packets to the cluster (10).

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-3557.

Respectfully submitted,
NIXON PEABODY LLP

Dated: November 27, 2009

/John P. Schaub, Reg. No. 42,125/
John P. Schaub
Reg. No. 42,125

NIXON PEABODY LLP
200 PAGE MILL ROAD, 2ND FLOOR
PALO ALTO, CA 94306-2022
TEL: (650) 320-7700
Fax: (650) 320-7701